

1 Q Okay. And the declaration that you
2 described was prepared for the purpose of supporting
3 the GGPR Petition to Deny and was attached as Exhibit
4 D to that Petition, is that correct?

5 A That's correct.

6 Q And you didn't speak Ms. Hecht and prep
7 her in preparing your direct testimony in this matter,
8 did you?

9 A No, I didn't.

10 Q The single conversation you alluded to a
11 moment ago, I take it occurred in 1997?

12 A Yes, that's correct.

13 Q And approximately how long was that
14 conversation?

15 A It may 15, 20 minutes.

16 Q Now in clarifying your testimony a moment
17 ago on the record you indicated that you may have
18 helped Ms. Hecht prepare this declaration, correct?

19 A That's correct.

20 Q And if it would help proceeding, I can put
21 a copy of the declaration in front of you if that will
22 aid you at some point?

23 A I've seen it before and I -- I did take
24 another look at it. So I don't -- I don't know that
25 it would aid me, but in trying to remember it, I can't

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1 quite remember whether I helped her draft that or not.

2 Q If at any point you need to look at it,
3 you think it may be of assistance to you, let me know
4 and I'll direct you to it.

5 A Okay.

6 Q You don't have personal knowledge that Ms.
7 Hecht herself wrote this declaration, do you?

8 A I have personally knowledge that she
9 submitted to me a list of things she wanted to say in
10 a declaration.

11 Q You don't have personal knowledge that Ms.
12 Hecht actually sat and typed up the declaration that
13 appear as Exhibit D to the GGPR Petition to Deny,
14 correct?

15 A Personal knowledge? Do you mean
16 witnessing her actually typing or --

17 Q Well, you didn't witness her actually type
18 it and she didn't tell you that she actually typed
19 that document, correct?

20 A She told me she wrote it when we gave me
21 the original document, which I don't have anymore.
22 But she told me she wrote that.

23 Q I thought you indicated a moment ago she
24 gave you some points she'd like to have included in
25 that document?

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1 A She gave me -- well, you might call it
2 outline or framework for a document that would be her
3 affidavit.

4 Q When she actually -- well, let me ask you
5 this: How did you a copy of Ms. Hecht's declaration?
6 Did she hand it to you or did someone else?

7 A She handed it to me.

8 Q And when she handed the final executed
9 declaration, did she tell you that she had prepared
10 it?

11 A I think it was implied that she had
12 prepared it. She was pretty adamant about some of the
13 points in there. So, I'm -- I don't -- I think she
14 was an intelligent person who said this is what I mean
15 and here's my declaration.

16 Q Did you actually type up the declaration
17 itself for her?

18 A The actual --

19 Q The document that she signed?

20 A The typing or the composing of the -- of
21 the words is what you mean?

22 Q The actual typing?

23 A The actual typing? I probably typed that
24 page, but I probably typed it from something that she
25 gave me. And I can't remember whether I edited it and

1 -- and had her take a look at it or whether it was
2 straight from exactly what she gave me and then typed
3 it. I can't remember that. I don't recall.

4 Q So when you say she gave you the executed
5 copy of the declaration you -- I'm just trying to
6 understand the time line. You typed it up based on
7 some notes she had given you. You may or may not have
8 edited it and then either you sent it to get it
9 executed or she signed it in your presence?

10 A Oh, you mean the notarized portion of it?

11 Q Yes.

12 A I don't recall. But -- I don't recall
13 whether -- whether that happened that way or not.

14 Q Some of the other affidavits attached in
15 support of the GGPR Petition to Deny you did prepare
16 yourself, correct?

17 A Some of them. Other people's affidavits?

18 Q Yes.

19 A I don't think so. Michael Johnson wrote
20 it own. Dave Evans wrote his own for sure. Deirdre
21 Kennedy and Baker, they all wrote their own. I may
22 have helped Hedy Jacobowitz, I'm not quite sure.

23 Q If you recall that you were the one who
24 actually typed it up and may have edited it, how is it
25 that you don't recall whether -- if you do recall that

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1 you typed up the document and may have edited it, how
2 *is it that you have any question that you helped Ms.*
3 *Hecht prepare it?*

4 A Because that may have been the one that I
5 helped her edit.

6 Q Well, I'm just trying to understand the
7 clarification you tried to make before, which was "I
8 may have helped draft Ms. Hecht's declaration."

9 A Yes.

10 Q It sounds to me that you're saying you did
11 type it up and you may have edited it.

12 MS. LEAVITT: Objection, Your Honor. I
13 think that the characterization of the correction as
14 I recall it was, "I do not recall if helped draft Ms.
15 Hecht's declaration."

16 MR. PRICE: No, I agree.

17 JUDGE SIPPEL: Let me get into this a
18 little bit. This is cross examination and given
19 enough leeway to get the job done.

20 But I will overrule the objection at this
21 point. Go ahead, Mr. Price.

22 BY MR. PRICE:

23 Q You state that you don't recall if you may
24 have helped draft Ms. Hecht's declaration. Is that the
25 clarification you intended to make?

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1 A Right. She gave me a declaration. I may
2 *have given her some suggestions on how that should be*
3 *changed. And I actually typed the thing up, gave it to*
4 *her and she took it and got it notarized.*

5 A Now, whether I made any changes or not, I
6 do not recall. So I may have typed up exactly what
7 she gave me.

8 Q For some period in the 1990's you were a
9 part time paid announcer at KALW, correct?

10 A Yes, that's correct.

11 Q And that's the position you were paid by
12 the hour?

13 A Correct.

14 Q And each week you produced a one hour
15 show?

16 A No. I think you're referring to a
17 volunteer program that I produced.

18 I was paid to run the audio board and do
19 announcements on the air. Generally on an as-needed
20 basis. But on a regularly scheduled basis generally
21 once a week. I think it was on Sundays.

22 Q Your regularly scheduled responsibility at
23 the station was a one hour on air program, correct?

24 A Well, there are two -- there are two kinds
25 -- there are two things here. There was one I was paid

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1 to be an as-needed announcer/operator on the radio
2 station. And separate from that later on, about 1999,
3 I started doing a volunteer program. That was after
4 the period in question.

5 Q You've never held a management position at
6 KALW, correct?

7 A No, I haven't.

8 Q And at some point while you were, as I
9 understand it, in this role as an as-needed
10 assistant/producer -- or I just want to make sure I'm
11 getting the term right.

12 A Yes. It's announcer/operation is what they
13 call it.

14 Q But at some point while you were an as-
15 needed producer/operator Ms. Hecht was a volunteer at
16 the station, correct?

17 A Correct.

18 Q And at or about 1997 Ms. Hecht was in late
19 50s, early 60s, correct?

20 A I don't know what her age was.

21 Q And Ms. Hecht volunteered on Tuesdays from
22 noon to 5:00, is that correct?

23 A I had no idea when she actually worked at
24 the station.

25 Q Did you review her declaration that we

1 just spoke about a moment ago in preparation for your
2 testimony today?

3 A Yes.

4 Q And are you aware that Ms. Hecht's
5 volunteering at the station comprised what she
6 described as "general office work?"

7 A I was not aware of that.

8 Q Now you never had any responsibility for
9 setting volunteer scheduling, did you?

10 A No.

11 Q And you weren't responsible for creating
12 or directing the assignments for staff volunteers at
13 the station, correct?

14 A No, I wasn't. No.

15 Q And with respect to Ms. Hecht, during the
16 course of your entire tenure at KALW you would have
17 direct contact with Ms. Hecht no more than
18 approximately three to four times, is that correct?

19 A That sounds about right.

20 Q And one of those times I understand was a
21 perhaps 15 minute conversation, correct?

22 A Correct.

23 Q And there may have been two to additional
24 contacts that you've ever had with Ms. Hecht, is that
25 right?

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1 A That's correct.

2 Q You don't have any personal knowledge as
3 Ms. Hecht's reputation as to character, do you?

4 A I would say what I know of her and what I
5 experience with her in those meetings.

6 Q But I guess my question is you don't have
7 any knowledge as to her reputation as to character, is
8 that correct?

9 A No, just her reputation. Do you mean
10 through other people in general in terms of what kind
11 of person she's like or my own dealings with her?

12 Q Her reputation as you've ascertained from
13 others?

14 A I would say she's a trustworthy person.

15 Q Do you recall being asked the same
16 question at your deposition in September?

17 A Yes.

18 Q Do you recall what your answer was when
19 you were asked "Do you have any knowledge as to Susan
20 Hecht's reputation as to character"?

21 A Well, I believe I said that I thought she
22 was trustworthy.

23 Q Well, I can pull out your deposition if it
24 helps refresh your recollection or I can tell you that
25 your answer was no.

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1 A Can I see the deposition?

2 Q Of course.

3 MR. PRICE: For the record I'm referring
4 to showing the witness a copy of Interview With Jason
5 Lopez, dated September 27, 2004. And I'm referring to
6 page 127 at lines 14 through 15.

7 I'm going to show it to counsel for the
8 Bureau first.

9 BY MR. PRICE:

10 Q I'm going to ask the witness to review
11 lines 14 through 15 the question beginning with "Do
12 you have any knowledge as to Susan Hecht's reputation
13 as to character."

14 A Well, if I could explain my answer in
15 terms --

16 Q Well, your answer is just one word, as I
17 understand it, correct?

18 A Well, this question --

19 JUDGE SIPPEL: Just answer counsel's
20 questions.

21 THE WITNESS: Yes. Okay. I think the word
22 "personal" threw me off when you said "Do I have any
23 personal knowledge." So I -- that's why I asked you
24 for a clarification of that.

25 BY MR. PRICE:

1 Q Well the question here says "Do you have
2 any knowledge as to Susan Hecht's reputation as to
3 character?" And your answer is: "No, I do not." Is
4 that correct?

5 A That's correct.

6 Q You go on to state in your prepared
7 testimony at paragraph 14 that then General Manager
8 Jeffrey Ramirez asked Ms. Hecht to review the public
9 inspection file. Do you see that in paragraph 14?

10 A Yes.

11 Q And you were not actually present when Mr.
12 Ramirez and Ms. Hecht had a conversation related to an
13 assignment regarding the public inspection file,
14 correct?

15 JUDGE SIPPEL: I just want to be sure the
16 record is clear on this. You're back now to--

17 MR. PRICE: Paragraph 14, Your Honor.

18 JUDGE SIPPEL: Of his testimony, which is
19 EB Exhibit 4?

20 MR. PRICE: Yes, Your Honor.

21 JUDGE SIPPEL: I just don't get it
22 confused with the deposition.

23 MR. PRICE: I appreciate that.

24 BY MR. PRICE:

25 Q Yes, referring to EB Exhibit 4, which is

1 your prepared testimony in this case, you state that
2 then General Manager asked Ms. Hecht to review the
3 public inspection file, correct?

4 A Correct.

5 Q And you weren't actually present when Mr.
6 Mr. Ramirez and Ms. Hecht had a conversation related
7 to an assignment regarding the public inspection file,
8 correct?

9 A No. Correct, I wasn't there.

10 Q And so you didn't hear the instructions
11 that Ms. Hecht received from Mr. Ramirez, is that
12 correct?

13 A That's correct.

14 Q And you further testified that Ms. Hecht
15 prepared a memo in June of 1997 that was provided to
16 Mr. Ramirez, correct?

17 A Correct.

18 Q And that memo was attached as Exhibit E or
19 it was ultimately attached to Exhibit E to GGPR's
20 Petition to Deny filed in late 1997, correct?

21 A Correct.

22 Q And you received a copy of this memo from
23 Mr. Evans, isn't that correct?

24 A That's correct.

25 Q And Dave Evans was the station engineer,

1 correct?

2 A That is correct.

3 Q Now you have no independent knowledge as
4 to whether Ms. Hecht was asked to prepare a memo, is
5 that right?

6 A Independent in terms of outside of Dave
7 Evans or --

8 Q You have no personal knowledge as to
9 whether Ms. Hecht was asked to prepare a memo, is that
10 correct? You didn't hear Mr. Ramirez ask her to
11 prepare a memo?

12 A I didn't not hear it, no. I was not
13 there.

14 Q And you don't have any personal knowledge
15 as to whether in preparing her memo Ms. Hecht relied
16 on any other documents, correct?

17 A Only what she told me.

18 Q Well, you didn't see her, for example, or
19 you don't -- let me ask you this: You don't know for
20 example whether she had a copy of the renewal
21 application, for example?

22 A No, I don't.

23 Q And you don't know whether she had a copy
24 of the applicable FCC regulations relating to the
25 maintenance of a public inspection file, is that

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1 correct?

2 A That's correct.

3 Q And as far as you know you don't have any
4 personal knowledge that Ms. Hecht had a background in
5 FCC regulatory law, correct?

6 A Correct.

7 Q And you never actually saw Ms. Hecht
8 typing this memo, is that correct?

9 A That's correct.

10 Q Now, you also testified on paragraph 14
11 that she gave this memo to Mr. Ramirez, correct?

12 A That's correct.

13 Q And you didn't actually see this encounter
14 where she gave the memo to Mr. Ramirez, is that right?

15 A That's right.

16 Q And you never saw Mr. Ramirez with a copy
17 of this memo, is that right?

18 A That's correct.

19 Q And you never saw Mr. Ramirez, I take it,
20 then reading the memo, is that correct?

21 A That's correct.

22 Q And you never saw Ms. Hecht give a copy of
23 her memo to anyone else involved in KALW's station
24 management, is that correct?

25 A That's correct.

1 Q You never spoke to Jeff Ramirez about Ms.
2 *Hecht's memo, did you?*

3 A No, I didn't.

4 Q You never asked him if he read it, is that
5 right?

6 A That's correct.

7 Q And you never personally saw Ms. Hecht
8 actually review the public inspection file, is that
9 correct?

10 A That's correct.

11 Q And so you can only speculate how she
12 actually created the memo or gained the information to
13 prepare the memo, correct? Or I shouldn't say
14 "speculate." So you have rely on what you were told
15 by someone else --

16 A I'm relying on what she told me.

17 Q You state in your testimony, I'm going to
18 focus on paragraph 15 now for just a moment. You
19 state in your testimony in paragraph 15 second
20 sentence that you did not know exactly what Ms. Hecht
21 meant when she wrote "partial" for the program list
22 for the period 1989 to 1997. Do you see that?

23 A Yes.

24 Q And you can't today testify with any
25 certainty as to what Ms. Hecht meant in her memo when

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1 she stated program list, program problem, the other
2 heading in her memo, is that correct?

3 A That's correct.

4 Q And you can't testify today whether or not
5 Mr. Ramirez asked Ms. Hecht to organize the public
6 inspection file for him, is that correct?

7 A Ask that again.

8 Q You can't testify today to having any
9 personal knowledge as to whether Mr. Ramirez asked Ms.
10 Hecht to organize the file for him, is that right?

11 A Correct. I was not there, I didn't hear
12 that directive.

13 Q Now I want to turn next to a few questions
14 about your prepared testimony at EB Exhibit 4 where
15 you discuss Mr. Dave Evans.

16 In paragraph 18 of your prepared testimony
17 you describe a conversation that allegedly occurred
18 between Mr. Evans and Jeffrey Ramirez regarding the
19 station's compliance with FCC regulations relating to
20 the maintenance of the public inspection file,
21 correct?

22 A Correct.

23 Q Then you go on to state in paragraph 19
24 that "I believe Mr. Evans was a completely truthful
25 person." Do you see that?

1 A Yes.

2 Q And in fact, presumably the basis for your
3 reliance on Mr. Evans' declaration is that you believe
4 him to be a trustworthy person, correct?

5 A Correct.

6 Q And if Mr. Evans were not a trustworthy
7 person, the signature on his declaration would be
8 meaningless, correct?

9 A By -- yes.

10 Q If someone's not trustworthy and they sign
11 that this is a true and correct statement, you'd
12 actually be that couldn't be trusted, correct?

13 A It depends. I mean, it depends how much
14 you can pick someone apart. I mean, if --

15 Q Well, let me ask you --

16 A -- someone who is imperfect, is that what
17 you're saying? Well, then, no than none of us would
18 be.

19 Q If you knew someone was not trustworthy,
20 would you rely on a declaration that they signed as
21 being true?

22 A No, I wouldn't.

23 Q Now, I want to show you several exhibits
24 or documents that were attached to GGPR's Petition to
25 Deny and reply to SFUSD's opposition to the Petition

1 to Deny. And I think they'll be easiest to find in
2 Enforcement Bureau Exhibit 5. No, I take that back.
3 That was the incomplete version.

4 Do we have a complete version?

5 MS. LEAVITT: Well, it's still number 5.

6 JUDGE SIPPEL: It's still number 5.

7 MR. PRICE: No. But the exhibits I want
8 to refer to weren't the ones that were in there.

9 JUDGE SIPPEL: Are you talking about the
10 -- let's go off the record until you find out what it
11 is.

12 (Whereupon, at 3:12 p.m. off the record
13 until 3:13 p.m.)

14 MR. PRICE: I'm handing the witness a copy
15 of Enforcement Bureau Exhibit 5, which is the complete
16 version of the GGPR Petition to Deny.

17 BY MR. PRICE:

18 Q And I just want to make clear that I'm not
19 going to ask you any questions about the documents in
20 here or about the document as whole. But if you need
21 to review the documents, please feel free to do so.

22 A Okay.

23 Q What I'm interested in is whether you can
24 identify for me how they came into the possession of
25 GGPR.

1 The first document I want you to look at
2 is Exhibit S. And, unfortunately, I don't have a page
3 number for you. But they are written alphabetically
4 at the bottom.

5 A Okay.

6 Q And Exhibit S is an email from Jeff
7 Ramirez then General Manager of KALW to Michael Moon.
8 Do you see that?

9 A Yes, I do.

10 Q Now, who provided this document to GGPR?

11 A Dave Evans.

12 Q And Mr. Evans wasn't copied on this email,
13 was he?

14 A No, he was not.

15 Q And he wasn't the author or the recipient,
16 is that correct?

17 A That's correct.

18 Q And Mr. Evans was, however, the station's
19 chief engineer, correct?

20 A That's correct.

21 Q And to your knowledge did Mr. Evans have
22 permission to access Mr. Ramirez' private email?

23 A I do not know.

24 JUDGE SIPPEL: How'd the redacting get
25 here?

1 MR. PRICE: Excellent question. You took
2 *my thunder.*

3 JUDGE SIPPEL: I'm sorry.

4 (Laughter).

5 JUDGE SIPPEL: I'm looking at it. It's an
6 incomplete document.

7 BY MR. PRICE:

8 Q Now can you explain to the Court why the
9 document's redacted?

10 A We decided that there was personal
11 information here that had nothing to do with the fact
12 that the content of -- the primary content in this is
13 the skirting of Civil Service rules in hiring
14 procedure. And that's what we wanted to bring out.
15 And there's other personal information in here that we
16 decided we --

17 Q Just so I understand. Mr. Evans obtained
18 somehow this email, brought it to GGPR and then you
19 decide to redact certain information before you submit
20 it as part of your Petition?

21 A That's correct.

22 Q Now can you please turn to Exhibit W of
23 the same document? And this is a copy of an
24 employment agreement between Lynn Nerenbaum and SFUSD,
25 is that correct?

1 A That's correct.

2 Q And Ms. Nerenbaum was not a member of
3 GGPR, correct?

4 A That's correct.

5 Q And from whom did GGPR receive this
6 document?

7 A I believe it was Dave Evans.

8 Q And do you have any personal knowledge
9 that Ms. Nerenbaum or someone else with appropriate
10 authority or employed by SFUSD gave this document to
11 Mr. Evans?

12 A I have no knowledge of that.

13 Q And can you please turn to Exhibit AA of
14 the same exhibit, Enforcement Bureau Exhibit 5? And
15 this is another consulting contact between Ms.
16 Nerenbaum and SFUSD, correct?

17 A Correct.

18 Q And this is another document that GGPR
19 received from Dave Evans, correct?

20 A I believe that's true, yes.

21 Q And again, Ms. Nerenbaum was not a member
22 of GGPR, correct?

23 A Correct.

24 Q And to your knowledge her personal
25 employment -- well, let me ask you this. To your

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1 knowledge is a personal employment contract a publicly
2 available document?

3 A I don't know.

4 Q Do you have a written employment contract
5 at any of your present employers?

6 A Actually no. I don't.

7 Q Have you ever had a written employment
8 contract with one of your employers?

9 A I generally been hired as a full time
10 employee. I haven't been hired as a contractor.

11 Q And as part of a full time employment
12 position were you ever asked to sign an employment
13 agreement?

14 A I may have, but not in this form. So it
15 may have been some sort of agreement, but not in this
16 form.

17 Q And you don't have any personal knowledge
18 as to whether Ms. Nerenbaum or SFUSD gave permission
19 for Mr. Evans to -- or gave Mr. Evans a copy of this
20 employment contract, do you?

21 A I have no knowledge of that.

22 MR. PRICE: Now, I'd also like to put
23 before the witness GGPR's reply to SFUSD's opposition
24 to the Petition to Deny. I understand this has not
25 been introduced as an exhibit in this case.

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1 The purpose for showing it to Mr. Lopez is
2 only to identify the source of one of the exhibits to
3 this document, but I'm happy to move it into evidence
4 of that's required or if you would like. But
5 otherwise, I'm inclined to just show Your Honor a
6 copy.

7 This is a response, if you recall, there
8 was an opposition filed to the Petition to Deny in
9 January?

10 JUDGE SIPPEL: Right.

11 MR. PRICE: And this is the reply brief.
12 I just want to focus on one of the documents in here,
13 an exhibit. And ask Mr. Lopez what it is and how GGPR
14 came to possess it.

15 JUDGE SIPPEL: Okay. Well, if he's going
16 to testify to a document, it's going to have to come
17 in. I mean, the whole -- what I'm saying is the
18 Petition doesn't need to -- the reply doesn't have to
19 come in. But the document that you're putting before
20 him would have to come in.

21 MR. PRICE: Counsel object to just
22 putting in Exhibit A to the reply and I'll further
23 identify the document in just a moment.

24 Show it to counsel.

25 MS. LEAVITT: We have no objection, Your

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1 Honor. We just need to see it before you give it to
2 him.

3 MR. PRICE: Of course.

4 MS. LEAVITT: No objection.

5 JUDGE SIPPEL: May I see what it is? I
6 just want to just take a look at it. Okay.

7 MR. PRICE: Your Honor, you can hold on to
8 that. We'll use the witness' copy and then when we're
9 done.

10 JUDGE SIPPEL: Why don't we get it marked.

11 MR. PRICE: Okay. Why don't we mark --

12 JUDGE SIPPEL: Let's ensure that we get
13 the right number here.

14 MR. PRICE: Let me properly identify it.
15 This document is attached as Exhibit A to GGPR's rply
16 to SFUSD's opposition to Petition to Deny and GGPR's
17 opposition to SFUSD's Motion to Strike. The entire
18 brief is dated February 17, 1998. And Exhibit A is 12
19 pages in length.

20 And I believe we're up to Exhibit SFUSD
21 60.

22 JUDGE SIPPEL: Oh, your exhibit numbers?
23 Your next exhibit numbers should be 77. This will be
24 77.

25 MR. PRICE: Marked as Exhibit 77.

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1 JUDGE SIPPEL: We'll so mark as a series
2 of documents described by counsel as SFUSD 77 for
3 identification.

4 (Whereupon, the document was
5 marked as SFUSD's Exhibit 77
6 for identification.)

7 BY MR. PRICE:

8 Q Can you tell me --

9 JUDGE SIPPEL: Does the witness have it in
10 front of him?

11 MR. PRICE: Yes, he does.

12 BY MR. PRICE:

13 Q Can you tell me how GGPR came to be in
14 possession of this document?

15 A I do not recall.

16 Q Well, maybe I can refresh your
17 recollection. I'm going to pass you a copy of your
18 deposition testimony from September 27, 2004. And to
19 make this easy, I might as well give one to the
20 Enforcement Bureau to look at, and one for you.

21 And ask you to refer to page 121. I
22 apologize. Page 139 line 18

23 And before I ask you a question, let me
24 ask you a question about the deposition. This was a an
25 interview you provided as part of this proceeding in

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